

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARCOS ANTONIO BARRERAS,

Plaintiff,

v.

CV 15-352 WPL

CAROLYN W. COLVIN, *Acting
Commissioner of the Social Security
Administration,*

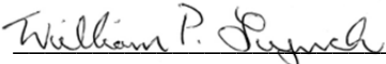
Defendant.

ORDER

This matter is before the Court on Plaintiff's motion for an award of attorney fees under the Equal Access to Justice Act. (Doc. 27.) Defendant failed to respond to this motion, which constitutes consent to grant the motion. D.N.M.LR-Civ. 7.1(b). Having reviewed the motion and the record, I find that an award of fees is appropriate and that the amount of fees requested is reasonable.

IT IS THEREFORE ORDERED THAT the motion is GRANTED and Plaintiff is awarded \$5,462.50 in attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



William P. Lynch
United States Magistrate Judge

A true copy of this order was served on the date of entry--via mail or electronic means--to counsel of record and any *pro se* party as they are shown on the Court's docket.